IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 266 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME-TAX - Applicant(s)
Versus
CHOKSHI VINODCHANDRA CHANDULAL - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 23/11/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1 The Income Tax Appellate Tribunal, Ahmedabad Bench 'A' has referred the following question under Section 256(2) of the Income Tax Act, 1961 (the Act) at the instance of the Commissioner of Income Tax.

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in remanding the matter to the CIT (A) for fresh decision?"

2 The Assessment Year is 1981-82 and the relevant accounting period is S.Y.2036.

3 In paragraph No.3 of the statement of case it has been stated that the Tribunal had earlier set aside the order of the CIT passed under Section 263 of the Act and restored the order of the ITO

vide ITA No.928/Ahd/1985 dated 28.9.1987. That, as a consequence thereof, the Tribunal had sent the matter back to the file of the CIT (A) for his decision on the merits of the case.

4 Heard Mrs.M.M.Bhatt, learned Standing Counsel for the revenue. Though served there is no appearance on behalf of the respondent-assessee. Mrs.Bhatt has very fairly pointed out that the aforesaid order dated 28/9/1987 of the Tribunal had been carried before this Court by way of ITR No.330 of 1993. That, this Court had by an order dated 23/8/2005 declined to answer the reference.

5 As can be seen from the order dated 15/12/1987 of the Tribunal, the same is consequential to the earlier order dated 28/9/1987. In the circumstances, this reference is declined to be answered and stands disposed of accordingly.

Sd/- Sd/-
(D.A.Mehta,J) (H.N.Devani, J)

m.m.bhatt